

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
CRIMINAL ACTION NO. 5:21-CR-00031-KDB-DCK**

UNITED STATES OF AMERICA,

v.

MICHAEL R. GUZMAN,

Defendant.

ORDER

THIS MATTER is before the Court on the Government’s Consent Motion for Interlocutory Sale of Property. (Doc. No. 21). The Government requests that the Court issue an order authorizing the immediate interlocutory sale of vehicles subject to forfeiture in this criminal case, with the proceeds to be held pending a final order of forfeiture by the Court.

Fed. R. Crim. P. 32.2 permits the interlocutory sale of property alleged to be forfeitable as long as it is in accordance with Supplemental Rule G(7) of Fed. R. Civ. P. The relevant portion of Rule G(7) reads:

(b) Interlocutory Sale or Delivery.

(i) Order to Sell. On motion by a party or a person having custody of the property, the court may order all or part of the property sold if:

- (A) the property is perishable or at risk of deterioration, decay, or injury by being detained in custody pending the action;
- (B) the expense of keeping the property is excessive or is disproportionate to its fair market value;
- (C) the property is subject to a mortgage or to taxes on which the owner is in default; or
- (D) the court finds other good cause.

The Government repeatedly cites to the “considerable storage costs” and “depreciation” as grounds for the interlocutory sale, but fails to give any estimation of these costs, the expected depreciation, or estimated value of the assets it seeks to sell. Notably, “depreciation” is not a

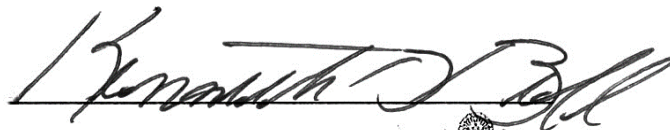
ground explicitly listed in Rule G(7) as a basis for an interlocutory sale. Although depreciation could constitute “other good cause,” the Government has offered no more than a conclusory statement that the vehicle will continue to depreciate in value.

In sum, the Court cannot decide whether an interlocutory sale is appropriate when it has no information regarding the value of the assets, the storage costs, or the expected depreciation of the vehicles. Accordingly, the Court will deny the motion without prejudice to the refiling of a motion containing such relevant information.

IT IS THEREFORE ORDERED that the Government’s Consent Motion for Interlocutory Sale of Property, (Doc. No. 21), is **DENIED** without prejudice.

SO ORDERED.

Signed: June 26, 2021

A handwritten signature in black ink, appearing to read "Kenneth D. Bell", written over a horizontal line.

Kenneth D. Bell
United States District Judge

